

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Jeffrey P. Bezos

Application No.: 09/437,815

Filed: November 10, 1999

For: **METHOD AND SYSTEM FOR
ALLOCATING DISPLAY SPACE**

Confirmation No. 8505

Examiner: Jeffrey D. CARLSON

Technology Center/Art Unit: 3622

**APPELLANTS' BRIEF UNDER
37 CFR §41.37**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Commissioner:

Further to the Notice of Appeal filed herewith for the above-referenced application, Appellants submit this Brief on Appeal.

TABLE OF CONTENTS

1. REAL PARTY IN INTEREST	3
2. RELATED APPEALS AND INTERFERENCES.....	4
3. STATUS OF CLAIMS	5
4. STATUS OF AMENDMENTS	6
5. SUMMARY OF CLAIMED SUBJECT MATTER	7
6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL.....	12
7. ARGUMENT	14
8. CONCLUSION.....	14
9. CLAIMS APPENDIX.....	58
10. EVIDENCE APPENDIX.....	71
11. RELATED PROCEEDINGS APPENDIX	72

1. REAL PARTY IN INTEREST

All right, title, and interest in the corresponding application is assigned to Amazon.com, Inc. of Seattle, Washington. The real party in interest in the present application thus is Amazon.com, Inc.

2. RELATED APPEALS AND INTERFERENCES

There are no other pending appeals, interferences or judicial proceedings known to Appellants, or the Appellants' legal representative, which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal. An Appeal Brief in the present case was previously filed on October 5, 2006, and a corrected Appeal Brief was filed January 29, 2007. An Examiner's Response was then filed on June 12, 2007, and a Reply Brief was filed on August 13, 2007. Subsequently, a response and Request for Continued Examination was filed on November 2, 2007. The Appeal was thus not brought before the Board. The instant Appeal Brief is in response to the Final Office Action mailed December 30, 2008.

3. STATUS OF CLAIMS

Claims 1-5, 7-9, 31-36, 41-55, and 75-105, which are attached hereto as an appendix, are currently pending in the application and are the subject of this appeal. Claims 6, 10-30, 37-40, and 56-74 were previously canceled.

4. STATUS OF AMENDMENTS

Appellants have not submitted any amendments subsequent to the Final Office Action mailed December 30, 2008. All previous amendments were entered by the Examiner.

5. SUMMARY OF CLAIMED SUBJECT MATTER

The present application includes six independent claims. Each independent claim is summarized below, with citations to corresponding portions of the specification and drawings as required by 37 C.F.R. § 41.37(c)(1)(v). These citations are provided to illustrate specific examples and embodiments of the recited claim language, and are not intended to limit the claims.

Claim 1

Claim 1 is directed to a method for allowing advertisers to place bids for display space on web page instances (*See, e.g.*, Specification, 6:9-16; Figure 1). The method comprises the following:

- receiving multiple bids with each indicating a bid amount, an advertisement, and a requested number of web page instances on which the advertisement is to be placed during a time period (*See, e.g.*, Specification, 3:25-26, 4:3-5,6:17-23,10:23-11:16);
- receiving a request from a user to provide a web page instance to a user, the web page instance including a display space slot for displaying a single advertisement (*See, e.g.*, Specification, 6:12-14, 15:9-23; Figure 6);
- selecting, based at least in part on review of the bid amounts and on a likelihood that the advertisement will be placed on the requested number of web page instance during the time period, a received bid whose bid amount is not the highest of the bids whose advertisement is eligible to be placed in the display space slot of the web page instance (*See, e.g.*, Specification, 3:26-4:2, 10:23-11 :16, 23: 1-22);
- adding the advertisement of the selected bid to the display space slot of the web page instance (*See, e.g.*, Specification, 4:2-3,17:14-16,18:5-7, Figures 6A and 6B); and
- charging the source of the selected bid the amount indicated by the selected bid (*See, e.g.*, Specification, 21:24-25, Figure 9).

Claim 45

Claim 45 is directed to a computer system for allocating advertising space slots of display page instances (*See, e.g.*, Specification, 6:9-16; Figure 1). The system comprises the following:

- a database for storing bids each indicating a bid amount, an advertisement, and display page eligibility (*See, e.g.*, Specification, 3:25-26, 4:3-5, 6:17-23, 10:23-11:16);
- a component that receives a request to allocate an advertisement for an advertising space slot of a display page instance (*See, e.g.*, Specification, 17:23-18:4, Figure 6B);
- a component that selects a bid based on the bid amount and display page eligibility stored in the database, wherein the selected bid does not have to be the highest bid amount of those bids whose advertisement is eligible to be displayed on the display page instance to maximize overall revenue received from placement of advertisements (*See, e.g.*, Specification, 3:26-4:2, 10:23-11:16, 23: 1-22);
- a component that charges the source of the selected bid the amount indicated by the selected bid (*See, e.g.*, Specification, 21:24-25, Figure 9); and
- a component that indicates that the advertisement of the selected bid is being allocated to and displayed within the advertising space slot of the display page instance, so that the advertisement of the selected bid is displayed within the advertising space slot of the display page instance (*See, e.g.*, Specification, 4:2-3, 17:14-16, 18:5-7, Figures 6A and 6B).

Claim 75

Claim 75 is directed to a method for allocating a display space slot of web page instances (*See, e.g.*, Specification, 6:9-16; Figure 1). The computer system comprises the following:

- providing a plurality of advertising plans where each advertising plan has a bid amount, an advertisement, and a specification of a display space slot on a web page to which the advertisement is to be allocated (*See, e.g.*, Specification, 3:25-26, 4:3-5, 6:17-23, 10:23-11:16);
- receiving a request to select an advertisement for a display space slot of web page instance (*See, e.g.*, Specification, 17:23-18:4, Figure 6B);

- identifying advertising plans whose specification of display space slots match the display space slot of the web page instance (*See, e.g.*, Specification, 6:23-7:1,10:19-23,22:1-27, Figure 10); and
- selecting an identified advertising plan whose advertisement is to be displayed on the display space slot of the web page instance and whose bid amount is not the highest bid amount of the identified advertising plans and charging the source of the selected advertising plane the bid amount associated with the selected advertising plan, wherein the selection tends to increase overall advertising revenue, thereby allowing the advertisement of the selected advertising plan to be displayed on the display space slot of the web page instance (*See, e.g.*, Specification, 3:26-4:2, 4:2-3, 10:23-11:16, 17:14-16, 18:5-7, 21:24-25, Figures 6A and 6B, Figure 9).

Claim 91

Claim 91 is directed to a computer system for allocating display space on display page instances (*See, e.g.*, Specification, 6:-9-16; Figure 1). The computer system comprises at least the following:

- a component that provides a plurality of advertising plans where each plan has a bid amount (*See, e.g.*, Specification, 6: 17-23);
- receives a request to select an advertisement for a display space of a display page instance (*See, e.g.*, Specification, 17:23-18:4,Figure 6B);
- identifies advertising plans whose advertisements can be placed on the display space instance of the web page (*See, e.g.*, Specification, 6:23-7:1,10:19-23,22:1-27, Figure 10);
- selects an identified advertising plan whose advertisement is to be displayed on the display space instance and whose bid amount is not the highest bid amount of the identified advertising plans, wherein the selection tends to increase overall advertising revenue (*See, e.g.*, Specification, 3:26-4:2, 10:23-11:16); and
- charging the source of the selected advertising plan the bid amount associated with the selected advertising plan so that the advertisement of the selected advertising plan is

displayed on the display space of the display page instance (*See, e.g.*, Specification, 4:2-3,17:14-16,18:5-7, 21:24-25, Figures 6A and 6B, Figure 9).

Claim 101

Claim 101 is directed to a method for selecting advertisements for placement on web page instances (*See, e.g.*, Specification, 6:9-16; Figure 1). The method comprises the following:

- providing advertising plans, each including a bid amount, an advertisement, and a requested number of web pages on which the advertisement is to be placed during a time period (*See, e.g.*, Specification, 3:25-26, 4:3-5, 6:17-23, 10:23-11 :16);
- for each advertising plan, tracking the number of times its advertisement has been selected for placement on a web page during its time period (*See, e.g.*, Specification, 20:17-21, 21:5-7, 23:1-22, Figures 8B and 11);
- receiving a request for an advertisement to be placed in a display slot of a web page instance that has been requested by a user (*See, e.g.*, Specification, 6:12-14, 15:9-23, 17:23-18:4, Figures 6 and 6B); and
- upon receiving the request,
 - identifying the provided advertising plans whose advertisements are eligible to be placed in the display space slot of the web page instance (*See, e.g.*, Specification, 6:23-7:1, 10:19-23,22:1-27, Figure 10);
 - for each eligible advertising plan, the computer system determines the likelihood that its advertisement will be placed on the requested number of web pages based on the placed number and the time remaining in its time period (*See, e.g.*, Specification, 23:12-17, Figure 11);
 - selecting an eligible advertising plan whose determined likelihood is less than the likelihood of another advertising plan and whose bid amount is lower than the bid amount of the other advertising plan (*See, e.g.*, Specification, 3:26-4:2, 10:23-11: 16, 23:1-22, Figure 11);
 - charging the source of the selected advertising plan the amount of the selected advertising plan (*See, e.g.*, Specification, 21:24-25, Figure 9); and

- sending an indication of the advertisement of the selected advertising plan, so that the advertisement can be displayed in the display space slot of the web page instance requested by the user (*See, e.g.*, Specification, 4:2-3, 17:14-16, 18:5-7, Figures 6A and 6B).

Claim 102

Claim 102 is directed to a method in a computer system for allocating display space on web page instances (*See, e.g.*, Specification, 6:9-16; Figure 1). The method comprises the following:

- providing bids from advertisers each bid indicating a bid amount and an advertisement (*See, e.g.*, Specification, 3:25-26, 4:3-5, 6:17-23, 10:23-11 :16);
- receiving a request to provide a web page instance to a user, the web page instance including a display space slot (*See, e.g.*, Specification, 6:12-14, 15:9-23, 17:23-18:4, Figures 6 and 6B);
- generating normalized bid amounts for the provided bids whose advertisements are eligible to be placed on the web page instance wherein placing the advertisement of the bid with the highest normalized bid amount in the display space slot of the web page instance is anticipated to maximize revenue (*See, e.g.*, Specification 3:26-4:2, 10:23-11:16);
- placing the advertisement of the bid with the highest normalized bid amount in the display space slot of the web page instance wherein the bid with the highest normalized bid is not the bid with the highest bid amount (*See, e.g.*, Specification, 4:2-3,17:14-16,18:5-7, Figures 6A and 6B); and
- charging the source of the bid with the highest normalized bid amount the amount indicated by the bid with the highest normalized bid amount (*See, e.g.*, Specification, 21:24-25, Figure 9).

6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-5, 45-50, 55, 75-81, 87-89, 91-99, 101, 102, and 104-105 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Roth (U.S. Patent No. 6,285,987), or in the alternative under 35 U.S.C. §103(a) as allegedly being obvious over Roth. Claims 7, 8, 31-35, 41-43, 51, 52, and 82-86 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Roth in view of Copple (U.S. Patent No. 6,178,408). Claims 9 and 53 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over Roth and Copple in view of Goldhaber (U.S. Patent No. 5,794,210). Claims 44, 90, and 100 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over Roth and Copple in further view of Bates (U.S. Patent No. 6,339,438). Claim 36 is rejected under 35 U.S.C. §103(a) as allegedly being obvious over Roth and Copple in view of Tulskie (U.S. Patent No. 6,249,768). Claim 54 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over Roth and Copple in view of Eldering (U.S. Patent No. 6,324,519).

Claims 1-5, 45-50, 55, 75-81, 87-89, 91-99, and 101-105 are alternatively rejected under 35 U.S.C. §103(a) as allegedly being obvious over Roth in view of Davis (U.S. Patent No. 6,269,361). Claims 7, 8, 31-35, 41,43, 51, 52, 82-86 are rejected under 35 U.S.C. §103(a) as unpatentable over Roth and Davis in further view of Copple. Claims 9 and 53 are alternatively rejected under 35 U.S.C. §103(a) as allegedly being obvious over Roth, Davis, and Copple in view of Goldhaber. Claims 44, 90, and 100 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over Roth, Davis, and Copple in view of Bates. Claim 36 is rejected under 35 U.S.C. §103(a) as allegedly being obvious over Roth, Davis, and Copple in view of Tulskie. Claim 54 is rejected under 35 U.S.C. §103(a) as allegedly being obvious over Roth, Davis, and Copple in view of Eldering.

Appellants will treat the cited references as prior art for purposes of this appeal, but reserve the right to disqualify the reference as prior art in the future.

By declining to separately argue in favor of some of the dependent claims, Appellants do not imply an agreement with, and do not acquiesce in, the Examiner's positions with respect to these claims. Appellants submit that these dependent claims at least stand with the claims from

which they depend, but also may include elements that cause these dependent claims to be patentable in their own right.

7. ARGUMENT

1. Rejections Over Roth (Not Combined With Davis)

A. Claims 1-5, 45-50, 55, 75-81, 87-89, 91-99, 101, 102, and 104-105 Are Not Anticipated by Roth

Under 35 U.S.C. §102 "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

Verdegaal Bros. v. Union Oil Co. of California 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Claims 1-5, 45-50, 55, 75-81, 87-89, 91-99, and 101-105 stand rejected under 35 U.S.C. §102 as allegedly anticipated by Roth. Claims 1, 45, 75, 91, 101, and 102 are independent. Because Roth does not teach or even suggest all of the elements of these claims, the rejection is improper.

Roth

Roth is directed to "a system for providing advertisements from a central server to viewers who access web sites." (Roth, Abstract). In Roth, "[p]roposed bids submitted by different advertisers are evaluated in real time in order to determine which particular advertisement will be displayed to a viewer." (Roth, Abstract). Each time a viewer selects to view a web page with a reference to a web server system (a "view-op"), "bidding agents 30 determine if the characteristics of the view-op meet the criteria in the proposed bids and if so they submit bids to bid selection logic." (Roth, 5:20-32). The selection logic "selects the highest bid and therefore an advertisement for display." (Roth, 5:33-37). Furthermore, Roth allows an advertiser to set a maximum bid price and activate a "Minimize Bid" option that causes the system to "try to bid the minimum amount necessary to maintain the level of buying that will ensure the desired number of impressions during the time allotted." (Roth, 8:29-43).

Independent Claim 1

Claim 1 reads as follows:

A method in a computer system for allocating display space on web page instances, the method comprising:

receiving multiple bids each indicating a bid amount, an advertisement, and a requested number of web page instances on which the advertisement is to be placed during a time period;

receiving a request to provide a web page instance to a user, the web page instance including a display space slot for displaying a single advertisement;

selecting, based at least in part on review of bid amounts and on a likelihood that the advertisement will be placed on the requested number of web page instances during the time period, a received bid whose bid amount is not the highest of the bids whose advertisement is eligible to be placed in the display space slot of the web page instance;

adding the advertisement of the selected bid to the display space slot of the web page instance; and

charging the source of the selected bid the amount indicated by the selected bid.

The rejection of claim 1 is improper at least because Roth does not disclose or suggest the subject matter recited in Applicants' claim 1. For example, Roth does not suggest "selecting . . . a received bid whose bid amount is not the highest of the bids whose advertisement is eligible to be placed" and "charging the source of the selected bid the amount indicated by the selected bid," as recited in independent claim 1.

The Office Action maintains that Roth discloses "system-controlled changes to proposed bids" and that these changes are "considered to be functionally equivalent to applicant's selection procedure based on bid and likelihood that an ad's specified number of impressions will be met." (Office Action, Page 16). The Office Action, however, does not cite any portion of Roth that discloses "selecting . . . a received bid whose bid amount is not the highest of the bids whose advertisement is eligible to be placed," as recited in Claim 1. Rather, the Office Action attempts to support this conclusion by asserting that "in a case where an under-achieving ad is influenced enough by the optimization process so as to be selected over a higher, competing proposed bid, the ad process can be said to have selected a proposed bid that is not the highest." (Office Action, Page 16, emphasis added). *However, the characterization of Roth in the Office Action as selecting a received bid whose bid amount is not the highest is not supported by the*

express language disclosed in Roth. In fact, Roth specifically states that the bid selection logic “compares various bids and selects the highest bid” (Roth, 5:33-34, 7:21, 7:31-32; emphasis added). Nowhere does Roth teach or even suggest “selecting a received bid whose bid amount is not the highest.” Since the characterization of Roth in the Office Action is not supported by the express language of Roth, such characterization cannot properly be used to provide the teaching that is lacking therefrom.

In view of the foregoing, Roth does not teach recitations such as “selecting . . . a received bid whose bid amount is not the highest of the bids whose advertisement is eligible to be placed” and “charging the source of the selected bid the amount indicated by the selected bid.” Roth thus fails to disclose, either expressly or inherently, each and every element of independent claim 1. As such, claim 1 cannot be anticipated by, and should be patentable over, Roth.

Dependent Claims 2-5

Claims 2-5 depend directly or indirectly from independent claim 1. Thus, the rejections of claims 2-5 are improper for at least the reasons set forth above for claim 1. At least some of these claims further recite subject matter that also is not disclosed or suggested by Roth, such that at least some of these claims are further patentable in their own right. For example, the rejection of claim 3 is improper because Roth does not teach or suggest the following elements added by claim 3: “wherein the selecting of the received bid is based at least in part on demographics of the user.” In addition, claim 4 recites: “wherein the selecting of the received bid is based at least in part on time at which the request is received.” Roth simply selects the highest bid and does not consider either “demographics of the user” or “time at which the request is received,” as recited. Claims 3 and 4 are thus further patentable in their own right.

Still further, the rejection of claim 5 is improper because Roth does not teach or suggest the following elements added by claim 5: “wherein the selecting of the received bid is based at least in part on a category to which the web page instance relates.” The Office Action does not fully address the elements of claim 5. To the extent the Examiner may be relying on Roth at col. 14, lines 9-20, this passage simply discloses criteria an advertiser specifies when submitting a proposed bid. Again, the bid selection logic of Roth always selects the highest bid. Therefore,

this reference fails to discloses “wherein the selecting of the received bid is based at least in part on a category to which the web page instance relates,” as recited. Claim 5 thus is further patentable in its own right.

Independent Claim 45

Claim 45 reads as follows:

A computer system for allocating advertising space slots of display page instances, comprising:
a database for storing bids each indicating bid amount, an advertisement, and display page eligibility;
a component that receives a request to allocate an advertisement for an advertising space slot of a display page instance;
a component that selects a bid based on bid amount and display page eligibility stored in the database, wherein the selected bid does not have the highest bid amount of those bids whose advertisement is eligible to be displayed in the advertising space slot of the display page instance to maximize overall revenue received from placement of advertisements;
a component that charges the source of the selected bid the amount indicated by the selected bid; and
a component that indicates that the advertisement of the selected bid is being allocated to the advertising space slot of the display page instance, so that the advertisement of the selected bid is displayed within the advertising space slot of the display page instance.

The rejection of claim 45 is improper because Roth does not teach or suggest these elements. As explained above with referenced to claim 1, Roth fails to disclose elements such as “a component that selects a bid. . . [that] does not have the highest bid amount of those bids whose advertisement is eligible to be displayed,” or “a component that charges the source of the selected bid the amount indicated by the selected bid,” as recited in claim 45. Accordingly, the rejection of claim 45 is also improper for at least these reasons.

Further, the current Office Action does not fully address all elements of claim 45. Thus, the rejection of claim 45 is improper and should be reversed.

Dependent Claims 46-50, and 55

Claims 46-50, and 55 depend directly or indirectly from claim 45. Thus, the rejections of claims 46-50, and 55 are improper for at least the reasons set forth above for claim 45. At least some of these claims further recite subject matter that also is not disclosed or suggested by Roth, such that at least some of these claims are further patentable in their own right.

For example, the rejection of claim 47 is improper because Roth does not teach or suggest the following elements added by claim 47 “wherein the display page eligibility is based in part on demographics of the user.” In addition, claim 48 recites “wherein the display page eligibility is based in part on time at which the request is received.” Roth simply selects the highest bid and does not consider either “demographics of the user” or “time at which the request is received,” as recited. Claims 47 and 48 thus are further patentable in their own right.

Similarly, the rejection of claim 50 is improper because Roth does not teach or suggest “wherein bids are selected in part on a likelihood that the requested number of advertisements associated with the bid will be placed within a specified time period,” as recited in claim 50. To the extent the Examiner may be relying on Roth at col. 8, lines 3-5, this portion of Roth merely identifies an exposure, which is “the number of ad serves for a particular advertisement,” and a frequency, which is the “number of times each viewer (on average) will be exposed to an advertisement.” There is absolutely no discussion here of a “specified time period,” let alone consideration of a “requested number of advertisements associated with the bid [that] will be placed within a specified time period,” as recited in claim 50.

A simple example will help to illustrate the claimed feature regarding a “requested number of advertisements associated with the bid [that] will be placed within a specified time period.” Assume advertiser X has submitted a bid of \$7 for a particular display space auction. Advertiser Y, who just now enters the auction, submits a bid of \$10. In this example, the advertising plan for X has only one day remaining and 100 ads yet to be placed, while Y’s advertising plan is set for 10 days and 300 desired ads. Each day, there are only 100 available display space opportunities that match both advertising plans. A conventional auction system is designed to accept only the highest bid. Thus, Y’s bid of \$10 would win the next 100 display space opportunities, and X would end up with 100 unplaced ads. A seller of the display space

who uses the conventional technique misses out on \$700 in potential revenue from X. An auction system according to applicants' invention, in contrast, would use normalized bid amounts to capture this \$700 in revenue. Since Y has 1000 total opportunities to get its 300 ads placed, there is no rush for the seller of the display space to place all of V's ads immediately. Advertiser V's normalized bid amount will thus change little, if at all, from the submitted bid. Advertiser X's bid, however, will be normalized to a higher amount (e.g., greater than \$10) to account for the lack of remaining time in X's advertising plan. As such, it is highly likely that many (and maybe all) of the next 100 display space opportunities will be sold to X at its actual bid of \$7 each, despite the fact that Y had maintained a higher actual bid throughout. Advertiser Y then has the next 900 display space opportunities to place its 300 desired ads. In the end, by accepting X's lower bid amounts early on in V's advertising plan period, the potential overall advertising revenue for the display space seller is raised, and the seller may now be able to collect revenue for all of the desired ad placements for both X and Y in which advertisement count and specific time periods factors into the selection of a bid.

Again, Roth does not disclose or even suggest "wherein bids are selected in part on a likelihood that the requested number of advertisements associated with the bid will be placed within a specified time period," as recited in claim 50. As such, the rejection of claim 50 is improper and should be reversed.

Independent Claim 75

Claim 75 reads as follows:

A method in a computer system for allocating a display space slot of web page instances, the method comprising:

providing a plurality of advertising plans, each advertising plan having a bid amount, an advertisement, and a specification of a display space slot to which the advertisement is to be allocated;

receiving a request to select an advertisement for a display space slot of a web page instance;

identifying advertising plans whose specification of display space slots match the display space slot of the web page instance; and

selecting an identified advertising plan whose advertisement is to be displayed on the display space slot of the web page instance and whose bid amount is not the highest

bid amount of the identified advertising plans and charging the source of the selected advertising plan the bid amount associated with the selected advertising plan, wherein selecting such an identified advertising plan tends to increase overall advertising revenue, so that the advertisement of the selected advertising plan is displayed as the only advertisement within the display space slot of the web page instance.

The rejection of claim 75 is improper at least because Roth fails to teach or suggest these elements. For example, Roth fails to disclose or suggest elements such as "selecting an identified advertising plan whose advertisement is to be displayed on the display space slot of the web page instance and whose bid amount is not the highest bid amount of the identified advertising plans and charging the source of the selected advertising plan the bid amount associated with the selected advertising plan," as recited in claim 75.

As explained above with reference to claim 1, Roth discloses bid selection logic that "compares various bids and selects the highest bid for display" (Roth, 5:33-34, 7:21, 7:31-32). Nowhere does Roth teach or even suggest "selecting an identified advertising plan. . . whose bid amount is not the highest bid amount of the identified advertising plans," as recited in claim 75. Furthermore, the current Office Action does not fully or independently address all elements of claim 75. Thus, the rejection of claim 75 is improper and should be reversed.

Dependent Claims 76-81 and 87-89

Claims 76-81 and 87-89 depend directly or indirectly from claim 75. Thus, the rejections of claims 76-81 and 87-89 are improper for at least the reasons set forth above for claim 75. At least some of these claims further recite subject matter that also is not disclosed or suggested by Roth, such that at least some of these claims are further patentable in their own right.

For example, the rejection of claim 76 is improper because Roth does not teach or suggest the following elements added by claim 76: "wherein each advertising plan has an end time and a requested number of advertisement placements" and "wherein the selecting selects an advertisement plan with a lower bid amount that is near its end time rather than an advertisement plan with a higher bid amount that is not as near its end time." As described above, Roth teaches selection of the bidder with the highest bid amount. Accordingly, there is no teaching here of selecting "an advertisement plan with a lower bid amount that is near its end time rather than an

advertisement plan with a higher bid amount that is not as near its end time,” as recited in claim 76. As such, claim 76 is further patentable in its own right.

The rejection of claim 77 is also improper because Roth does not teach or suggest the following elements added by claim 77: “wherein each advertising plan includes a requested number of web page instances on which to place advertisements,” and “wherein the selecting factors in the number of the requested number of web page instances on which advertisements have been placed.” The selection mechanism of Roth simply considers the amount of each received bid (i.e. highest bid). Roth fails to teach or even suggest selection that “factors in the number of requested number of web page instances,” as recited in claim 77. As such, dependent claim 77 is further patentable in its own right.

Similarly, the rejection of claim 78 is improper because Roth does not teach or suggest “dynamically generating a normalized bid amount for at least some of the advertising plans,” and selecting an advertising plan “with the highest normalized bid amount,” as recited in claim 78. The Office Action fails to cite any particular portion of Roth as teaching the claimed feature regarding “dynamically generating a normalized bid amount”. Instead, the Office Action asserts that normalized bids are equivalent to Roth’s system modifying bids “based on the likelihood of impressions (page appearances) being met.” (Office Action, Page 5). Again, the Office Action incorrectly characterizes the teachings of Roth.

Roth discloses a “minimize bid” option that causes the system to “try to bid the minimum amount necessary to maintain the level of buying that will ensure the desired number of impressions during the time allotted.” (Roth, 8:29-43). However, selection of a minimum bid option is not tantamount to “dynamically generating a normalized bid amount.” As explained earlier with reference to claim 1, Roth specifically states that the bid selection logic “compares various bids and selects the highest bid.” (Roth, 5:33-34, 7:21, 7:31-32). Accordingly, there is also no teaching here of selecting an advertising plan “with the highest normalized bid amount,” as recited in claim 78. Thus, the rejection of claim 78 is improper and should be reversed.

Independent Claim 91

Claim 91 reads as follows:

A computer system for allocating display space on display page instances, comprising:
a component that provides a plurality of advertising plans, each advertising plan with a bid amount;
receiving a request to select an advertisement for a display space of the display page instance;
identifying advertising plans whose advertisements can be placed on the display space of the display page instance;
selecting an identified advertising plan whose advertisement is to be displayed on the display space of the display page instance and whose bid amount is not the highest bid amount of the identified advertising plans wherein selecting such an identified advertising plan tends to increase overall advertising revenue; and
charging the source of the selected advertising plan the bid amount associated with the selected advertising plan, so that the advertisement of the selected advertising plan is displayed on the display space of the display page instance.

The rejection of claim 91 is improper because Roth does not disclose or suggest these elements. For example, Roth fails to teach or suggest elements such as "selecting an identified advertising plan...whose bid amount is not the highest bid amount of the identified advertising plans" and "charging the source of the selected advertising plan the bid amount associated with the selected advertising plan," as recited in independent claim 91.

As explained above with reference to claim 1, Roth discloses bid selection logic that "compares various bids and selects the highest bid for display" (Roth, 5:33-34, 7:21, 7:31-32). Nowhere does Roth teach or even suggest "selecting an identified advertising plan...whose bid amount is not the highest bid amount," as recited in claim 91. Furthermore, the current Office Action does not fully or independently address all elements of claim 91. Thus, the rejection of claim 91 is improper and should be reversed.

Dependent Claims 92-99

Claims 92-99 depend directly or indirectly from claim 91. Thus, the rejections of claims 92-99 are improper for at least the reasons set forth above for claim 91. At least some of these

claims further recite subject matter that also is not disclosed or suggested by Roth, such that at least some of these claims are further patentable in their own right.

For example, the rejection of claim 92 is improper because Roth does not teach or even suggest the following elements added by claim 92: “wherein each advertising plan has an end time and a requested number of advertisement placements and wherein the selecting selects an advertisement plan with a lower bid amount that is near its end time rather than an advertisement plan with a higher bid amount that is not as near its end time.” As discussed above with reference to claim 50, Roth fails to disclose a specific time or end period, or “selecting an advertisement plan with a lower bid amount that is near its end time.” The Office Action asserts that this element is obvious or inherent from Roth’s selection of under-achieving ads. (Office Action, page 5). However, the Office Action fails to cite any particular portion of Roth as disclosing the “selection of under-achieving ads.” As mentioned earlier, Roth only discloses bid logic that selects the highest bid amount at the end of an auction, and does not disclose “selection of under-achieving ads,” or bids having a bid amount lower than the highest bid amount as alleged in the Office Action. Accordingly, Roth fails to teach or even suggest “selecting...an advertisement plan...that is near its end time rather than an advertisement plan with a higher bid amount,” as recited in dependent claim 92. Thus, the rejection of claim 92 is improper and should be reversed.

Similarly, the rejection of claim 94 is improper because Roth does not teach or suggest the following elements added by claim 94: “generating a normalized bid amount for at least some of the identified advertising plans and wherein the selecting selects the identified advertising plan with the highest normalized bid amount.” Roth simply fails to teach a method or system for “generating a normalized bid amount” and selecting an advertising plan “with the highest normalized bid amount.”

For example, the Office Action fails to cite any particular portion of Roth as teaching the claimed feature regarding “generating a normalized bid amount.” Instead, the Office Action asserts that normalized bids are equivalent to Roth’s system modifying bids “based on the likelihood of impressions (page appearances) being met”. (Office Action, Page 5). Again, the Office Action incorrectly characterizes the teachings of Roth.

Roth discloses a "minimize bid" option that causes the system to "try to bid the minimum amount necessary to maintain the level of buying that will ensure the desired number of impressions during the time allotted." (Roth, 8:29-43). However, selection of a minimum bid option is not tantamount to "generating a normalized bid amount". As explained earlier with reference to claim 1, Roth specifically states that the bid selection logic "compares various bids and selects the highest bid." (Roth, 5:33-34, 7:21, 7:31-32). Accordingly, there is also no teaching here of selecting an advertising plan "with the highest normalized bid amount," as recited in claim 94. Thus, the rejection of claim 94 is improper and should be reversed.

In addition, the rejection of claim 96 is improper because Roth does not teach or suggest the following elements added by claim 96: "wherein the normalized bid amount for an advertising plan factors in the likelihood that the advertisement will be included on a requested number of display page instances." Since Roth fails to disclose generating normalized bid amounts, it naturally follows that this references similarly fails to disclose that "the likelihood that an advertisement will be included on requested number of display page instances" is factored into the normalized bid amount. Again, the Office Action simply does not address these elements.

Independent Claim 101

Claim 101 reads as follows:

A method in a computer system for selecting advertisements for placement on web page instances, the method comprising:

providing advertising plans, each advertising plan including an amount that is a bid amount, an advertisement, and a requested number of web page pages instances on which the advertisement is to be placed during a time period;

for each advertising plan, tracking a placed number of times its advertisement has been selected for placement on a web page instance during its time period;

receiving a request for an advertisement to be placed in a display slot of a web page instance that has been requested by a user; and

upon receiving the request,

identifying provided advertising plans whose advertisements are eligible to be placed in the display space slot of the web page instance;

for each eligible advertising plan, determining a likelihood that its advertisement will be placed on the requested number of web page instances based on the placed number and the time remaining in its time period;

- selecting an eligible advertising plan whose determined likelihood is less than the likelihood of another advertising plan and whose amount is lower than the amount of the other advertising plan;
- charging the source of the selected advertising plan the amount of the selected advertising plan; and
- sending an indication of the advertisement of the selected advertising plan as a response to the received request, so that the advertisement of the selected advertising plan can be displayed in the display space slot of the web page instance that has been requested by a user.

The rejection of claim 101 is improper because Roth does not teach or suggest these elements. For example, Roth fails to disclose or suggest elements such as "selecting an eligible advertising plan...whose amount is lower than the amount of the other advertising plan" and "charging the source of the selected advertising plan the amount of the selected advertising plan," as recited in claim 101.

The Office Action maintains that "in a case where an under-achieving ad is influenced enough by the optimization process so as to be selected over a higher, competing proposed bid, the ad process can be said to have selected a proposed bid that is not the highest. (Office Action, Page 16, emphasis added). However, such characterization of Roth is not supported by the express language disclosed in Roth. As explained above, Roth explicitly discloses bid selection logic that "compares various bids and selects the highest bid for display." (Roth, 5:33-34, 7:21, 7:31-32). Because Roth selects the highest bid for display, this reference does not teach or even suggest "selecting an eligible advertising plan...whose amount is lower than the amount of the other advertising plan," as recited in independent claim 101. Accordingly, the rejection of claim 101 is also improper for at least these reasons.

Independent Claim 102

Claim 102 reads as follows:

- A method in a computer system for allocating display space on web page instances, the method comprising:
 - providing bids from advertisers each bid indicating a bid amount and an advertisement;
 - receiving a request to provide a web page instance to a user, the web page instance including a display space slot;

generating normalized bid amounts for the provided bids whose advertisements are eligible to be placed on the web page instance wherein placing the advertisement of the bid with the highest normalized bid amount in the display space slot of the web page instance is anticipated to maximize revenue;

placing the advertisement of the bid with the highest normalized bid amount in the display space slot of the web page instance wherein the bid with the highest normalized bid is not the bid with the highest bid amount; and

charging the source of the bid with the highest normalized bid amount the amount indicated by the bid with the highest normalized bid amount.

The rejection of claim 102 is improper because Roth does not teach or suggest these elements. For example, Roth fails to disclose or suggest elements such as “placing the advertisement of the bid with the highest normalized bid in the display space slot of the web page instance wherein the bid with the highest normalized bid is not the bid with the highest bid amount” and “charging the source of the bid with the highest normalized bid amount the amount indicated by the bid with the highest normalized bid amount” as recited in claim 102.

In fact, the Office Action fails to address the rejection of independent claim 102 altogether. Indeed, the Office Action does not reference any elements of independent claim 102, nor cite any portion of Roth teaching the elements of the claim. Nevertheless, Appellants will argue for the patentability of claim 102 as if the claim rejection was properly addressed in the Office Action.

As explained above with reference to claims 78 and 94, Roth fails to teach “generating normalized bid amounts,” as recited in claim 102. In particular, Roth discloses a “minimize bid” option that causes the system to “try to bid the minimum amount necessary to maintain the level of buying that will ensure the desired number of impressions during the time allotted.” (Roth, 8:29-43). However, selection of a minimum bid option is not equivalent to “generating a normalized bid amounts,” as recited.

Furthermore, Roth specifically discloses bid selection logic that compares various bids and selects the highest bid for display. (Roth, 5:33-34, 7:21, 7:31-32). Because Roth teaches selection and display of an advertisement having the highest bid amount, this reference clearly fails to teach “placing the advertisement of the bid with the highest normalized bid in the display

space slot of the web page instance wherein the bid with the highest normalized bid is *not the bid with the highest bid amount*,” as recited in independent claim 102.

In view of the foregoing, Roth fails to disclose, either expressly or inherently, each and every element of independent claim 102. As such, claim 102 cannot be anticipated by, and should be patentable over, Roth.

B. Claims 1-5, 45-50, 55, 75-81, 87-89, 91-99, 101, 102, and 104-105 Are Not Obvious Based on Roth

Claims 1-5, 45-50, 55, 75-81, 87-89, 91-99, 101, 102, and 104-105 are alternatively rejected under 35 U.S.C. §103(a) as allegedly being obvious over Roth.

With regard to rejections under 35 U.S.C. §103, evidence must be provided which “as a whole shows that the legal determination sought to be proved (i.e., the reference teachings establish a *prima facie* case of obviousness) is more probable than not” (MPEP §2142).

Accordingly, “the key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious” (MPEP §2142; see KSR International Co. v. Teleflex, Inc., 550 U.S. 398, 82 USPQ 2d 1385 (1395-97 (2007)).

Independent Claim 1

The obviousness rejection of claim 1 is improper at least because Roth does not disclose or suggest the subject matter recited in Applicants’ claim 1. For example, Roth does not suggest “selecting . . . a received bid whose bid amount is not the highest of the bids whose advertisement is eligible to be placed” and “charging the source of the selected bid the amount indicated by the selected bid,” as recited in independent claim 1.

The Office Action asserts that Roth teaches “system-increase of a lower proposed bid so that the ad gets chosen” and that such “system increase” is “taken to be functionally the same as selecting a lower bid for an under-achieving ad.” (Office Action, Page 4). The Office Action maintains that “it would have been obvious to one of ordinary skill to have not manipulated the proposed bids at all, but merely choose the ads which need to increase their impression rate in order to maintain the level of buying, even if lower-bid ads must be selected.” (Office Action, Page 4).

Again, the characterization of Roth in the Office Action as “system-increase of a lower proposed bid so that the ad gets chosen” is not supported by the express language disclosed in Roth. In fact, Roth expressly discloses that the bid selection logic “compares various bids and selects the highest bid amount.” (Roth, 5:33-34, 7:21, 7:31-32). Nowhere does Roth teach or even suggest “selecting” a “received bid whose bid amount is not the highest”, as recited in Applicants’ claim 1, or similar language. Since the characterization of Roth in the Office Action is not supported by the express language of Roth, such characterization cannot properly be used to provide the teaching that is lacking therefrom. Furthermore, since the Office Action improperly characterizes Roth, the Office Action has also failed to provide any *clear articulation* of a reason why the claimed invention would have been obvious in view of Roth.

In addition, the Office Action alleges official notice that a “Vickrey Auction” is an auction system where a winning bidder is charged the price of the second highest-bid (Office Action, Page 4). More particularly, the Office Action asserts that “it would have been obvious to one of ordinary skill to have taken the winning ad and charged the associated advertiser a price of a lower bid.” (Office Action, Page 4). In a “Vickrey Auction”¹, however, the *highest bidder wins*, but the price paid is the second-highest bid. . Though a different bid amount is charged to the source of the winning bid, the selected bid amount of the “Vickrey Auction” is still the highest bid amount rather than “a bid whose bid amount is not the highest” as recited in independent claim 1. Accordingly, the cited “Vickrey Auction” does not remedy the deficiencies of Roth with respect to Applicants’ claim 1.)

As discussed above, Applicants’ claim 1 recites subject matter that is not disclosed, taught, or suggested by Roth, such that claim 1 cannot be rendered obvious by Roth. Ausubel, L.M., Milgrom, P.: “The Lovely but Lonely Vickrey Auction”, Combinatorial Auctions, pg. 17-40 (2006)

Dependent Claims 2-5

Claims 2-5 depend directly or indirectly from independent claim 1. Thus, the rejections of claims 2-5 are improper for at least the reasons set forth above for claim 1. Further, at least

¹ Ausubel, L.M., Milgrom, P.: “The Lovely but Lonely Vickrey Auction”, Combinatorial Auctions, pg. 17-40 (2006)

some of these claims recite subject matter that also would not be obvious in light of Roth, such that these claims are further patentable in their own right.

For example, the rejection of claim 3 is improper because Roth does not teach or suggest the following elements added by claim 3: “wherein the selecting of the received bid is based at least in part on demographics of the user.” In addition, claim 4 recites: “wherein the selecting of the received bid is based at least in part on time at which the request is received.” Roth simply selects the highest bid and does not consider either “demographics of the user” or “time at which the request is received,” as recited. Claims 3 and 4 are thus further patentable in their own right.

Still further, the rejection of claim 5 is improper because Roth does not teach or suggest the following elements added by claim 5: “wherein the selecting of the received bid is based at least in part on a category to which the web page instance relates.” The Office Action does not fully address the elements of claim 5. To the extent the Examiner may be relying on Roth at col. 14, lines 9-20, this passage simply discloses criteria an advertiser specifies when submitting a proposed bid. Again, the bid selection logic of Roth always selects the highest bid. Therefore, this reference fails to teach or suggest “wherein the selecting of the received bid is based at least in part on a category to which the web page instance relates,” as recited. Thus, the obviousness rejection of claim 5 is improper and should be reversed.

Independent Claim 45

The obviousness rejection of claim 45 is improper because Roth does not teach or even suggest these elements. As explained above with reference to claim 1, Roth fails to disclose elements such as “a component that selects a bid . . . [that] does not have the highest bid amount of those bids whose advertisement is eligible to be displayed,” or “a component that charges the source of the selected bid the amount indicated by the selected bid,” as recited in claim 45. Accordingly, the rejection of independent claim 45 is also improper for at least these reasons.

Again, the characterization of Roth in the Office Action as “system-increase of a lower proposed bid so that the ad gets chosen” is not supported by the express language disclosed in Roth. Roth expressly discloses that the bid selection logic “compares various bids and selects the highest bid amount.” (Roth, 5:33-34, 7:21, 7:31-32). Still further, the current Office Action

does not fully address all elements of claim 45, and has failed to provide any *clear articulation* of a reason why the claimed invention would have been obvious in view of Roth. Thus, the obviousness rejection of claim 45 is improper and should be reversed.

Dependent Claims 46-50, and 55

Claims 46-50, and 55 depend directly or indirectly from claim 45. Thus, the rejections of claims 46-50, and 55 are improper for at least the reasons set forth above for claim 45. Further, at least some of these claims recite subject matter that also would not be obvious in light of Roth, such that these claims are further patentable in their own right.

For example, the rejection of claim 47 is improper because Roth does not teach or suggest the following elements added by claim 47 “wherein the display page eligibility is based in part on demographics of the user.” In addition, claim 48 recites “wherein the display page eligibility is based in part on time at which the request is received.” Roth simply selects the highest bid and does not consider either “demographics of the user” or “time at which the request is received,” as recited. Claims 47 and 48 are thus further patentable in their own right.

Similarly, the obviousness rejection of claim 50 is improper because Roth does not teach or suggest “wherein bids are selected in part on a likelihood that the requested number of advertisements associated with the bid will be placed within a specified time period,” as recited in claim 50. To the extent the Examiner may be relying on Roth at col. 8, lines 3-5, this portion of Roth merely identifies an exposure, which is “the number of ad serves for a particular advertisement,” and a frequency, which is the “number of times each viewer (on average) will be exposed to an advertisement.” These is absolutely no discussion here of a “specified time period,” let alone consideration of a “requested number of advertisements associated with the bid [that] will be placed within a specified time period,” as recited in claim 50.

Again, Roth does not disclose or even suggest “wherein bids are selected in part on a likelihood that the requested number of advertisements associated with the bid will be placed within a specified time period,” as recited in claim 50. As such, the obviousness rejection of claim 50 is improper and should be reversed.

Independent Claim 75

The obviousness rejection of claim 75 is improper because Roth fails to teach or suggest these elements. For example, Roth fails to disclose or suggest elements such as "selecting an identified advertising plan whose advertisement is to be displayed on the display space slot of the web page instance and whose bid amount is not the highest bid amount of the identified advertising plans and charging the source of the selected advertising plan the bid amount associated with the selected advertising plan," as recited in claim 75.

As explained above with reference to claim 1, Roth discloses bid selection logic that "compares various bids and selects the highest bid for display" (Roth, 5:33-34, 7:21, 7:31-32). Nowhere does Roth teach or even suggest "selecting an identified advertising plan . . . whose bid amount is not the highest bid amount of the identified advertising plans," as recited in claim 75. Furthermore, the current Office Action does not fully or independently address all elements of claim 75, and has failed to provide any *clear articulation* of a reason why the claimed invention would have been obvious in view of Roth. Thus, the obviousness rejection of claim 75 is improper and should be reversed.

Dependent Claims 76-81, 87-89

Claims 76-81 and 87-89 depend directly or indirectly from claim 75. Thus, the obviousness rejections of claims 76-81 and 87-89 are improper for at least the reasons set forth above for claim 75. Further, at least some of these claims recite subject matter that also would not be obvious in light of Roth, such that these claims are further patentable in their own right.

For example, the rejection of claim 76 is improper because Roth does not teach or suggest the following elements added by claim 76: "wherein each advertising plan has an end time and a requested number of advertisement placements" and "wherein the selecting selects an advertisement plan with a lower bid amount that is near its end time rather than an advertisement plan with a higher bid amount that is not as near its end time." As described above, Roth teaches selection of the bidder with the *highest bid amount*. Accordingly, there is no teaching here of selecting "an advertisement plan with a *lower bid amount* that is near its end time rather than an

advertisement plan with a higher bid amount that is not as near its end time,” as recited in claim 76. As such, claim 76 is further patentable in its own right.

The rejection of claim 77 is also improper because Roth does not teach or suggest the following elements added by claim 77: “wherein each advertising plan includes a requested number of web page instances on which to place advertisements,” and “wherein the selecting factors in the number of the requested number of web page instances on which advertisements have been placed.” The selection mechanism of Roth simply considers the amount of each received bid (i.e. highest bid). Roth fails to teach or even suggest selection that “factors in the number of requested number of web page instances,” as recited in claim 77. As such, dependent claim 77 is further patentable in its own right.

Similarly, the rejection of claim 78 is improper because Roth does not teach or suggest “dynamically generating a normalized bid amount for at least some of the advertising plans,” and selecting an advertising plan “with the highest normalized bid amount,” as recited in claim 78. The Office Action fails to cite any particular portion of Roth as teaching the claimed feature regarding “dynamically generating a normalized bid amount”. Instead, the Office Action asserts that normalized bids are equivalent to Roth’s system modifying bids “based on the likelihood of impressions (page appearances) being met.” (Office Action, Page 5). Again, the Office Action incorrectly characterizes the teachings of Roth.

Roth discloses a “minimize bid” option that causes the system to “try to bid the minimum amount necessary to maintain the level of buying that will ensure the desired number of impressions during the time allotted.” (Roth, 8:29-43). However, selection of a minimum bid option is not tantamount to “dynamically generating a normalized bid amount.” As explained earlier with reference to claim 1, Roth specifically states that the bid selection logic “compares various bids and selects the highest bid.” (Roth, 5:33-34, 7:21, 7:31-32). Accordingly, there is also no teaching here of selecting an advertising plan “with the highest normalized bid amount,” as recited in claim 78. Thus, the obviousness rejection of claim 78 is improper and should be reversed.

Independent Claim 91

The obviousness rejection of claim 91 is improper because Roth does not disclose or suggest these elements. For example, Roth fails to teach or suggest elements such as "selecting an identified advertising plan...whose bid amount is not the highest bid amount of the identified advertising plans" and "charging the source of the selected advertising plan the bid amount associated with the selected advertising plan," as recited in independent claim 91.

As explained above with reference to claim 1, Roth discloses bid selection logic that "compares various bids and selects the highest bid for display" (Roth, 5:33-34, 7:21, 7:31-32). Nowhere does Roth teach or even suggest "selecting an identified advertising plan...whose bid amount is not the highest bid amount," as recited in claim 91. Furthermore, the current Office Action does not fully or independently address all elements of claim 91, and has failed to provide any *clear articulation* of a reason why the claimed invention would have been obvious in view of Roth. Thus, the obviousness rejection of claim 91 is improper and should be reversed.

Dependent Claims 92-99

Claims 92-99 depend directly or indirectly from independent claim 91. Thus, the rejections of claims 92-99 are improper for at least the reasons set forth above for claim 91. Further, at least some of these claims recite subject matter that also would not be obvious in light of Roth, such that these claims are further patentable in their own right.

For example, the obviousness rejection of claim 92 is improper because Roth does not teach or even suggest the following elements added by claim 92: "wherein each advertising plan has an end time and a requested number of advertisement placements and wherein the selecting selects an advertisement plan with a lower bid amount that is near its end time rather than an advertisement plan with a higher bid amount that is not as near its end time." As discussed above with reference to claim 50, Roth fails to disclose a specific time or end period, or "selecting an advertisement plan with a lower bid amount that is near its end time." The Office Action asserts that this element is obvious or inherent from Roth's selection of under-achieving ads. (Office Action, page 5). However, the Office Action fails to cite any particular portion of Roth as disclosing the "selection of under-achieving ads." As mentioned earlier, Roth only

discloses bid logic that selects the highest bid amount at the end of an auction, and does not disclose “selection of under-achieving ads,” or bids having a bid amount lower than the highest bid amount as alleged in the Office Action. Accordingly, Roth fails to teach or even suggest “selecting...an advertisement plan...that is near its end time rather than an advertisement plan with a higher bid amount,” as recited in dependent claim 92. Thus, the obviousness rejection of claim 92 is improper and should be reversed.

Further, the obviousness rejection of claim 94 is improper because Roth does not teach or suggest the following elements added by claim 94: “generating a normalized bid amount for at least some of the identified advertising plans and wherein the selecting selects the identified advertising plan with the highest normalized bid amount.” Roth simply fails to teach a method or system for “generating a normalized bid amount” and selecting an advertising plan “with the highest normalized bid amount.”

For example, the Office Action fails to cite any particular portion of Roth as teaching the claimed feature regarding “generating a normalized bid amount.” Instead, the Office Action asserts that normalized bids are equivalent to Roth’s system modifying bids “based on the likelihood of impressions (page appearances) being met”. (Office Action, Page 5). Again, the Office Action incorrectly characterizes the teachings of Roth.

Roth discloses a “minimize bid” option that causes the system to “try to bid the minimum amount necessary to maintain the level of buying that will ensure the desired number of impressions during the time allotted.” (Roth, 8:29-43). However, selection of a minimum bid option is not tantamount to “generating a normalized bid amount”. As explained earlier with reference to claim 1, Roth specifically states that the bid selection logic “compares various bids and selects the highest bid.” (Roth, 5:33-34, 7:21, 7:31-32). Accordingly, there is also no teaching here of selecting an advertising plan “with the highest normalized bid amount,” as recited in claim 94. Thus, the obviousness rejection of claim 94 is improper and should be reversed.

In addition, the obviousness rejection of claim 96 is improper because Roth does not teach or suggest the following elements added by claim 96: “wherein the normalized bid amount

for an advertising plan factors in the likelihood that the advertisement will be included on a requested number of display page instances.” Since Roth fails to disclose generating normalized bid amounts, it naturally follows that this references similarly fails to disclose that “the likelihood that an advertisement will be included on requested number of display page instances” is factored into the normalized bid amount. Again, the Office Action simply does not address these elements, and has failed to provide any *clear articulation* of a reason why the claimed invention would have been obvious in view of Roth. Accordingly, the obviousness rejection of claim 96 is improper and should be reversed. .

Independent Claim 101

The obviousness rejection of claim 101 is improper because Roth does not teach or suggest these elements. For example, Roth fails to disclose or suggest elements such as “selecting an eligible advertising plan...whose amount is lower than the amount of the other advertising plan” and “charging the source of the selected advertising plan the amount of the selected advertising plan,” as recited in independent claim 101.

The Office Action maintains that “in a case where an under-achieving ad is influenced enough by the optimization process so as to be selected over a higher, competing proposed bid, the ad process can be said to have selected a proposed bid that is not the highest. (Office Action, Page 16, emphasis added). However, such characterization of Roth is not supported by the express language disclosed in Roth. As explained above, Roth explicitly discloses bid selection logic that “compares various bids and selects the highest bid for display.” (Roth, 5:33-34, 7:21, 7:31-32). Because Roth selects the highest bid for display, this reference does not teach or even suggest “selecting an eligible advertising plan...whose amount is lower than the amount of the other advertising plan,” as recited in independent claim 101. Accordingly, the obviousness rejection of claim 101 is also improper for at least these reasons.

Independent Claim 102

The obviousness rejection of claim 102 is improper because Roth does not teach or suggest these elements. For example, Roth fails to disclose or suggest elements such as “placing the advertisement of the bid with the highest normalized bid in the display space slot of the web

page instance wherein the bid with the highest normalized bid is not the bid with the highest bid amount" and "charging the source of the bid with the highest normalized bid amount the amount indicated by the bid with the highest normalized bid amount" as recited in claim 102.

In fact, the Office Action fails to address the rejection of independent claim 102 altogether. Indeed, the Office Action does not reference any elements of independent claim 102, nor cite any portion of Roth teaching the elements of the claim. Nevertheless, Appellants will argue for the patentability of claim 102 as if the claim rejection was properly addressed in the Office Action.

As explained above with reference to claims 78 and 94, Roth fails to teach "generating normalized bid amounts," as recited in claim 102. In particular, Roth discloses a "minimize bid" option that causes the system to "try to bid the minimum amount necessary to maintain the level of buying that will ensure the desired number of impressions during the time allotted." (Roth, 8:29-43). However, selection of a minimum bid option is not equivalent to "generating a normalized bid amounts," as recited.

Furthermore, Roth specifically discloses bid selection logic that compares various bids and selects the highest bid for display. (Roth, 5:33-34, 7:21, 7:31-32). Because Roth teaches selection and display of an advertisement having the highest bid amount, this reference clearly fails to teach "placing the advertisement of the bid with the highest normalized bid in the display space slot of the web page instance wherein the bid with the highest normalized bid is *not the bid with the highest bid amount*," as recited in independent claim 102.

Still further, the Office Action simply does not address these elements and has failed to provide any *clear articulation* of a reason why the claimed invention would have been obvious in view of Roth. As such, the obviousness rejection of claim 102 is improper and should be reversed.

Dependent Claims 104-105

Claims 104-105 depend directly or indirectly from independent claim 102, discussed above. Thus, the rejections of claims 104-105 are improper for the reasons set forth above for

claim 102. Further, at least some of these claims recite subject matter that also would not be obvious in light of Roth, such that these claims are further patentable in their own right.

For example, the obviousness rejection of claim 104 is improper because Roth does not teach or suggest the following elements added by claim 104: “wherein a provided bid includes a requested number of web page instances on which the advertisement is to be placed during a time period and the normalized bid amount for a bid is generated based on the bid amount and likelihood that the advertisement will be placed on the requested number of web page instances during the time period.” The Office Action does not fully address claim 104 and has failed to provide any *clear articulation* of a reason why the claimed invention would have been obvious in view of Roth. As discussed above with reference to claims 92 and 96, Roth does not teach instances/advertisements per time period, or “the normalized bid amount for a bid is generated based on the bid amount and likelihood,” as recited in claim 104. As such, the obviousness rejection of claim 104 is improper and should be reversed.

C. Claims 7, 8, 31-35, 41-43, 51, 52, and 82-86 Are Not Obvious Based on Roth in view of Copple

Claims 7, 8, 31-35, 41-43, 51, 52, and 82-86 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Roth in view of Copple (U.S. Patent No. 6,178,408).

Applicants respectfully disagree. These claims depend directly or indirectly from one of claims 1, 45, or 75, and as such claims 7, 8, 31-35, 41-43, 51, 52, and 82-86 are allowable for at least the same reasons as their respective independent claim. Like Roth, Copple discloses selecting the highest bid amount: “at the end of the fulfillment period for a specific item, the highest bidder is contacted and must then redeem the required points for a particular item within a fixed redemption period.” (Copple, 3:4-7; emphasis added). Thus, the proposed combination of Roth and Copple does not render obvious the subject matter of any of independent claims 1, 45, or 75, such that any claim that depends therefrom is not rendered obvious by Roth and Copple.

Further, it is respectfully submitted that Copple does not make up for the deficiencies in Roth with respect to at least several of claims 7, 8, 31-35, 41-43, 51, 52, and 82-86, such that these

claims are further patentable over the proposed combination of Roth and Copple in their own right.

Dependent Claim 7

For example, the obviousness rejection of claim 7 is further improper because Roth and Copple do not alone or collectively teach or suggest the elements added by claim 7. For example, Roth and Copple fail to disclose or suggest elements such as the “bid amount is based on points received for participating in a commercial transaction.” As such, the obviousness rejection of claim 7 is improper and should be reversed.

Dependent Claim 31

The obviousness rejection of claim 31 is improper because Roth and Copple do not alone or collectively teach or suggest the following elements added by claim 31. For example, Roth and Copple fail to disclose or suggest elements such as “allocating points to users based on results of participation in transactions and wherein a bid amount indicates a number of allocated points.” As such, the obviousness rejection of claim 31 is improper and should be reversed.

Dependent Claim 41

The obviousness rejection of claim 41 is improper because Roth and Copple do not alone or collectively teach or suggest the following elements added by claim 41. For example, Roth and Copple fail to disclose or suggest elements such as “advertising strategy is based at least in part on access patterns of users to categories with which display space slot is associated.” As such, the obviousness rejection of claim 41 is improper and should be reversed.

Dependent Claim 51

The obviousness rejection of claim 51 is improper because Roth and Copple do not alone or collectively teach or suggest the following elements added by claim 51. For example, Roth and Copple fail to disclose or suggest elements such as “the bid amount is based on points received for participating in a commercial transaction.” As such, the obviousness rejection of claim 51 is improper and should be reversed.

Dependent Claim 82

The obviousness rejection of claim 82 is improper because Roth and Copple do not alone or collectively teach or suggest the following elements added by claim 82. For example, Roth and Copple fail to disclose or suggest elements such as “a bid amount is based on points received for participating in a commercial transaction.” As such, the obviousness rejection of claim 82 is improper and should be reversed.

D. Claims 9 and 53 Are Not Obvious Based Upon Roth and Copple in view of Goldhaber

Claims 9 and 53 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over Roth and Copple in view of Goldhaber (U.S. Patent No. 5,794,210). Applicants respectfully disagree. Goldhaber discloses a method for allowing competing advertisers to bid for the attention of users using automatic electronic systems so that buyers and sellers can actively find each other and negotiate transactions. (Goldhaber, Abstract). Goldhaber provides no details of how the auction process is conducted or how winning bids are determined. This reference thus also fails to provide the teaching absent from Roth and Copple, discussed above with respect to independent claims 1 and 45, from which these claims depend, such that the proposed combination would still not arrive at the subject matter recited in these claims. Claims 9 and 53 are therefore allowable for at least the same reasons as their respective independent claim discussed above.

In addition, the obviousness rejection of claims 9 and 53 is improper because Roth, Copple, and Goldhaber do not alone or collectively teach or suggest the following elements added by claims 9 and 53. For example, Roth, Copple, and Goldhaber fail to teach that “the bid amount is based on points received for clicking through one web page instance to an instance of another web page,” as recited in claim 9, or “the bid amount is based on points received for clicking through one display page instance to an instance of another display page,” as recited in dependent claim 53. As such, the obviousness rejection of claims 9 and 53 is improper and should be reversed.

E. Claims 44, 90, and 100 Are Not Obvious Based Upon Roth and Copple in view of Bates

Claims 44, 90, and 100 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over Roth and Copple in view of Bates (U.S. Patent No. 6,339,438). Applicants respectfully disagree. Bates is generally directed to providing a scroll bar of a computer display with an advertisement. (Bates: Abstract). This reference, however, fails to even mention an auction system or bid amounts altogether. Therefore, inclusion of Bates does not provide the teaching absent from Roth and Copple, discussed above with respect to independent claims 1, 75, and 91, from which these claims depend, such that the proposed combination would still not arrive at the subject matter recited in these claims. Claims 44, 90, and 100 are thus allowable for at least the same reasons as their respective independent claim discussed above.

In addition, the obviousness rejection of claims 44, 90, and 100 is improper because Roth, Copple, and Bates do not alone or collectively teach or suggest the following elements added by claims 44, 90, and 100. For example, Roth, Copple, and Bates fail to disclose that an “advertising strategy is based at least in part on whether an item being advertised competes with an item associated with the display space,” as recited in claim 44 and similarly in claims 90 and 100. As such, the obviousness rejection of these claims is improper and should be reversed.

F. Claim 36 is Not Obvious Based Upon Roth and Copple in view of Tulskie

Claim 36 is rejected under 35 U.S.C. §103(a) as allegedly being obvious over Roth and Copple in view of Tulskie (U.S. Patent No. 6,249,768). Applicants respectfully disagree. Tulskie is directed to a network representation of a business firm’s resources, capabilities, value propositions, and interrelationship for automated analysis (Tulskie, 6:34-40). Like Bates above, Tulskie also fails to discuss an auction system or bid amounts altogether, let alone the “selection of a bid whose bid amount is not the highest” and “charging the source the amount of the selected bid,” as recited in Applicants’ claim 1. Therefore, inclusion of Tulskie does not provide the teaching absent from Roth and Copple, discussed above with respect to independent claim 1, from which this claim depends, such that the proposed combination would still not arrive at the

subject matter recited in claim 1. Accordingly, Claim 36 is allowable for at least the same reasons with respect to independent claim 1 discussed above.

In addition, the obviousness rejection of claim 36 is improper because Roth, Copple, and Tulskie do not alone or collectively teach or suggest the following elements added by claim 36. For example, Roth, Copple, and Tulskie fail to disclose that “participation is providing a web page instance through which a person selects another web page instance,” as recited in claim 36. As such, the obviousness rejection of claim 36 is improper and should be reversed.

G. Claim 54 is Not Obvious Based Upon Roth and Copple in view of Eldering

Claims 54 is rejected under 35 U.S.C. §103(a) as allegedly being obvious over Roth and Copple in view of Eldering (U.S. Patent No. 6,324,519). Applicants respectfully disagree. Eldering discloses an advertisement auction system in which advertisers place bids for advertisement opportunities in order to allow consumers to receive more targeted advertisements. (Eldering: Abstract). More particularly, Eldering teaches that “determining an initial winning bid includes determining a highest bid”. (Eldering, claims 4-6, 9:57-66, emphasis added). Therefore, like the references above, Eldering also fails to disclose the “selecting a bid whose bid amount is not the highest”, such that the proposed combination would still not arrive at the subject matter recited in these claims. Claim 54 is thus allowable for at least the same reasons with respect to independent claim 45 discussed above.

In addition, the obviousness rejection of claim 54 is improper because Roth, Copple, and Eldering do not alone or collectively teach or suggest the following elements added by claim 54. For example, Roth, Copple, and Eldering fail to disclose a “bid amount varies based on degree to which the display page matches the display page eligibility,” as recited in dependent claim 54. As such, the obviousness rejection of claim 54 is improper and should be reversed.

2. Rejections Over Roth Combined With Davis

A. **Claims 1-5, 45-50, 55, 75-81, 87-89, 91-99, and 101-105 Are Not Obvious Based Upon Roth in view of Davis**

Claims 1-5, 45-50, 55, 75-81, 87-89, 91-99, and 101-105 are alternatively rejected under 35 U.S.C. §103(a) as allegedly being obvious over Roth in view of Davis. Applicants respectfully disagree.

Davis

Davis is directed to techniques for "enabling information providers to influence a position for a search listing within a search result list." (Davis, Abstract). Davis stores a set of information provider accounts having at least one searching listing that includes "a description, a search term comprising one or more keywords, and a bid amount." (Davis, Abstract). When an information provider enters a new bid amount, Davis "compares this bid amount with all other bid amounts for the same search term, and generates a rank value for all search listings having that search term." (Davis, Abstract). "A higher bid...will result in a higher rank value and a more advantageous placement." (Davis, Abstract).

Independent Claim 1

The Office Action relies on Roth and Davis for suggesting or teaching all the elements of independent claims 1, 45, 75, 91, and 101. However, Appellants submit that inclusion of Davis does not provide the teaching absent from Roth. As such, the proposed combination of Roth and Davis would still not arrive at the subject matter recited in independent claim 1.

With regard to claim 1, Davis, like Roth, similarly fails to disclose "selecting ... a received bid whose bid amount is not the highest of the bids" and "charging the source of the selected bid the amount indicated by the selected bid." In Davis, search results list entries are displayed according to an associated rank value "determined in a direct relationship to the bid amount 358; the higher the bid amount, the higher the rank value, and the more advantageous the placement location on the search result list." (Davis, 13:16-20). "Preferably, the rank value is assigned through a process [that]...gathers all search listings that match a particular search term,

sorts the search listings in order from highest to lowest bid amount, and assigns a rank value to each search listing in order. The highest bid amount receives the highest rank value, proceeding to the lowest bid amount, which receives the lowest rank value." (Davis, 18:8-17). Once a search listing has been assigned a rank value and, therefore, assigned to a location on a search result list, it is no longer eligible to receive another rank value or to be assigned to another location on the search results list page. Consequently, each time Davis selects a search listing to which to assign a rank value and, therefore, assigns a search listing to a location on a search result list, Davis selects from the set of eligible search listings (i.e., the search listings that have not been assigned a rank value) the search listing with the highest bid amount. Because Davis assigns rank values to search listings from "highest rank value" to "lowest rank value," Davis assigns each rank value to the eligible search listing with the highest bid amount. In contrast, at each opportunity to select an advertisement to display on a page, the method of claim 1 selects "a received bid whose bid amount is not the highest of the bids."

In short, inclusion of Davis does not cure the deficiencies of Roth. Accordingly, the obviousness rejection of independent claim 1 is improper and should be reversed.

Dependent Claims 2-5

Claims 2-5 depend directly or indirectly from independent claim 1. Thus, the rejections of claims 2-5 are improper for at least the reasons set forth above for claim 1. At least some of these claims further recite subject matter that also is not disclosed or suggested by Roth and Davis, such that at least some of these claims are further patentable in their own right.

For example, the rejection of claim 3 is improper because Roth and Davis do not teach or suggest the following elements added by claim 3: "wherein the selecting of the received bid is based at least in part on demographics of the user." In addition, claim 4 recites: "wherein the selecting of the received bid is based at least in part on time at which the request is received." Roth and Davis both select or feature the highest bid amount and do not consider factors such as the "demographics of the user" or "time at which the request is received," as recited. Claims 3 and 4 are thus further patentable in their own right.

Similarly, the rejection of claim 5 is improper because Roth and Davis do not teach or suggest the following elements added by claim 5: “wherein the selecting of the received bid is based at least in part on a category to which the web page instance relates.” The Office Action does not fully address the elements of claim 5. To the extent the Examiner may be relying on Roth at col. 14, lines 9-20, this passage simply discloses criteria an advertiser specifies when submitting a proposed bid. Again, the bid selection logic of Roth and the bidding ranking of Davis, always selects the highest bid. Therefore, both references fail to disclose “wherein the selecting of the received bid is based at least in part on a category to which the web page instance relates,” as recited. Thus, the obviousness rejection of claim 5 is improper and should be reversed.

Independent Claim 45

The obviousness rejection of claim 45 is improper because Roth and Davis does not teach or even suggest these elements. As explained above with reference to claim 1, Roth and Davis fail to disclose elements such as “a component that selects a bid . . . [that] does not have the highest bid amount of those bids whose advertisement is eligible to be displayed,” or “a component that charges the source of the selected bid the amount indicated by the selected bid,” as recited in claim 45. Accordingly, the rejection of independent claim 45 is also improper for at least these reasons.

Again, the characterization of Roth in the Office Action as “system-increase of a lower proposed bid so that the ad gets chosen” is not supported by the express language disclosed in Roth. Roth expressly discloses that the bid selection logic “compares various bids and selects the highest bid amount” (Roth, 5:33-34, 7:21, 7:31-32). Davis discloses a bid ranking system that ranks and selects the highest bid. (Davis, 18:8-17). Still further, the current Office Action does not fully address all elements of claim 45, and has failed to provide any *clear articulation* of a reason why the claimed invention would have been obvious in view of Roth and Davis. Thus, the obviousness rejection of claim 45 is improper and should be reversed.

Dependent Claims 46-50, and 55

Claims 46-50, and 55 depend directly or indirectly from claim 45. Thus, the rejections of claims 46-50, and 55 are improper for at least the reasons set forth above for claim 45.

Furthermore, at least some of these claims further recite subject matter that also is not disclosed or suggested by Roth and Davis, such that at least some of these claims are further patentable in their own right.

For example, the rejection of claim 47 is improper because Roth and Davis do not teach or suggest the following elements added by claim 47 “wherein the display page eligibility is based in part on demographics of the user.” In addition, claim 48 recites “wherein the display page eligibility is based in part on time at which the request is received.” Both Roth and Davis select or feature the highest bid amount and do not consider factors such as the “demographics of the user” or “time at which the request is received,” as recited. Claims 47 and 48 thus are further patentable in their own right.

Similarly, the obviousness rejection of claim 50 is improper because Roth and Davis do not teach or suggest “wherein bids are selected in part on a likelihood that the requested number of advertisements associated with the bid will be placed within a specified time period,” as recited in claim 50. To the extent the Examiner may be relying on Roth at col. 8, lines 3-5, this portion of Roth merely identifies an exposure, which is “the number of ad serves for a particular advertisement,” and a frequency, which is the “number of times each viewer (on average) will be exposed to an advertisement.” These is absolutely no discussion here of a “specified time period,” let alone consideration of a “requested number of advertisements associated with the bid [that] will be placed within a specified time period,” as recited in claim 50.

Again, Roth and Davis do not disclose or even suggest “wherein bids are selected in part on a likelihood that the requested number of advertisements associated with the bid will be placed within a specified time period,” as recited in claim 50. As such, the obviousness rejection of claim 50 is improper and should be reversed.

Independent Claim 75

The obviousness rejection of claim 75 is improper because Roth and Davis fail to teach or suggest these elements. For example, Roth and Davis fail to disclose or suggest elements such as "selecting an identified advertising plan whose advertisement is to be displayed on the display space slot of the web page instance and whose bid amount is not the highest bid amount of the identified advertising plans and charging the source of the selected advertising plan the bid amount associated with the selected advertising plan," as recited in claim 75.

As explained above with reference to claim 1, Roth discloses bid selection logic that "compares various bids and selects the highest bid for display" (Roth, 5:33-34, 7:21, 7:31-32), while Davis discloses a bid ranking system that selects the highest bid (Davis, 18:8-17). Nowhere does Roth or Davis teach or even suggest "selecting an identified advertising plan . . . whose bid amount is not the highest bid amount of the identified advertising plans," as recited in claim 75. Furthermore, the current Office Action does not fully or independently address all elements of claim 75, and has failed to provide any *clear articulation* of a reason why the claimed invention would have been obvious in view of Roth and Davis. Thus, the obviousness rejection of claim 75 is improper and should be reversed.

Dependent Claims 76-81, 87-89

Claims 76-81 and 87-89 depend directly or indirectly from claim 75. Thus, the obviousness rejections of claims 76-81 and 87-89 are improper for at least the reasons set forth above for claim 75. Furthermore, at least some of these claims further recite subject matter that also is not disclosed or suggested by Roth or Davis, such that at least some of these claims are further patentable in their own right.

For example, the rejection of claim 76 is improper because Roth and Davis do not teach or suggest the following elements added by claim 76: "wherein each advertising plan has an end time and a requested number of advertisement placements" and "wherein the selecting selects an advertisement plan with a lower bid amount that is near its end time rather than an advertisement plan with a higher bid amount that is not as near its end time." As described above, Roth and Davis both teach selection of the bidder with the highest bid amount. Accordingly, there is no

teaching here of selecting “an advertisement plan with a lower bid amount that is near its end time rather than an advertisement plan with a higher bid amount that is not as near its end time,” as recited in claim 76. As such, claim 76 is further patentable in its own right.

The rejection of claim 77 is also improper because Roth and Davis do not teach or suggest the following elements added by claim 77: “wherein each advertising plan includes a requested number of web page instances on which to place advertisements,” and “wherein the selecting factors in the number of the requested number of web page instances on which advertisements have been placed.” The selection mechanism of Roth simply considers the amount of each received bid (i.e. highest bid), while Davis ranks the highest bidders with the highest ranks. Both Roth and Davis fail to teach or even suggest selection that “factors in the number of requested number of web page instances,” as recited in claim 77. As such, dependent claim 77 is further patentable in its own right.

Similarly, the rejection of claim 78 is improper because Roth and Davis do not teach or suggest “dynamically generating a normalized bid amount for at least some of the advertising plans,” and selecting an advertising plan “with the highest normalized bid amount,” as recited in claim 78. The Office Action fails to cite any particular portion of Roth or Davis as teaching the claimed feature regarding “dynamically generating a normalized bid amount”.

Roth discloses a “minimize bid” option that causes the system to “try to bid the minimum amount necessary to maintain the level of buying that will ensure the desired number of impressions during the time allotted.” (Roth, 8:29-43). However, selection of a minimum bid option is not tantamount to “dynamically generating a normalized bid amount.” As explained earlier with reference to claim 1, Roth specifically states that the bid selection logic “compares various bids and selects the highest bid.” (Roth, 5:33-34, 7:21, 7:31-32). Davis discloses that “the higher the bid amount, the higher the rank value, and the more advantageous the placement location on the search result list.” (Davis, 13:16-2). Accordingly, there is also no teaching in either reference of selecting an advertising plan “with the highest normalized bid amount,” as recited in claim 78. Thus, the obviousness rejection of claim 78 is improper and should be reversed.

Independent Claim 91

The obviousness rejection of claim 91 is improper because Roth and Davis do not disclose or suggest these elements. For example, Roth and Davis both fail to teach or suggest elements such as "selecting an identified advertising plan...whose bid amount is not the highest bid amount of the identified advertising plans" and "charging the source of the selected advertising plan the bid amount associated with the selected advertising plan," as recited in independent claim 91.

As explained above with reference to claim 1, Roth discloses bid selection logic that "compares various bids and selects the highest bid for display." (Roth, 5:33-34, 7:21, 7:31-32). Davis discloses that "the higher the bid amount, the higher the rank value, and the more advantageous the placement location on the search result list." (Davis, 13:16-2). Nowhere does Roth or Davis teach or even suggest "selecting an identified advertising plan...whose bid amount is not the highest bid amount," as recited in claim 91. Furthermore, the current Office Action does not fully or independently address all elements of claim 91, and has failed to provide any *clear articulation* of a reason why the claimed invention would have been obvious in view of Roth. Thus, the obviousness rejection of claim 91 is improper and should be reversed.

Dependent Claims 92-99

Claims 92-99 depend directly or indirectly from independent claim 91. Thus, the rejections of claims 92-99 are improper for at least the reasons set forth above for claim 91. At least some of these claims further recite subject matter that also is not disclosed or suggested by Roth, such that at least some of these claims are further patentable in their own right.

For example, the obviousness rejection of claim 92 is improper because Roth and Davis do not teach or even suggest the following elements added by claim 92: "wherein each advertising plan has an end time and a requested number of advertisement placements and wherein the selecting selects an advertisement plan with a lower bid amount that is near its end time rather than an advertisement plan with a higher bid amount that is not as near its end time." As discussed above with reference to claim 50, Roth fails to disclose a specific time or end period, or "selecting an advertisement plan with a lower bid amount that is near its end time."

The Office Action asserts that this element is obvious or inherent from Roth's selection of under-achieving ads. (Office Action, page 5). However, the Office Action fails to cite any particular portion of Roth or Davis as disclosing the "selection of under-achieving ads."

As mentioned earlier, Roth only discloses bid logic that selects the highest bid amount at the end of an auction, and does not disclose "selection of under-achieving ads," or bids having a bid amount lower than the highest bid amount as alleged in the Office Action. Davis discloses that "the higher the bid amount, the higher the rank value, and the more advantageous the placement location on the search result list." (Davis, 13:16-2). Accordingly, Roth and Davis both fail to teach or even suggest "selecting...an advertisement plan...that is near its end time rather than an advertisement plan with a higher bid amount," as recited in dependent claim 92. Thus, the obviousness rejection of claim 92 is improper and should be reversed.

Similarly, the obviousness rejection of claim 94 is improper because Roth and Davis do not teach or suggest the following elements added by claim 94: "generating a normalized bid amount for at least some of the identified advertising plans and wherein the selecting selects the identified advertising plan with the highest normalized bid amount." Both Roth and Davis simply fail to teach a method or system for "generating a normalized bid amount" and selecting an advertising plan "with the highest normalized bid amount."

For example, the Office Action fails to cite any particular portion of Roth as teaching the claimed feature regarding "generating a normalized bid amount." Instead, the Office Action asserts that normalized bids are equivalent to Roth's system modifying bids "based on the likelihood of impressions (page appearances) being met". (Office Action, Page 5). Again, the Office Action incorrectly characterizes the teachings of Roth. Roth discloses a "minimize bid" option that causes the system to "try to bid the minimum amount necessary to maintain the level of buying that will ensure the desired number of impressions during the time allotted." (Roth, 8:29-43). However, selection of a minimum bid option is not tantamount to "generating a normalized bid amount". As explained earlier with reference to claim 1, Roth specifically states that the bid selection logic "compares various bids and selects the highest bid," (Roth, 5:33-34, 7:21, 7:31-32). Davis discloses that "the higher the bid amount, the higher the rank value, and the more advantageous the placement location on the search result list." (Davis, 13:16-2).

Accordingly, there is also no teaching in either reference of selecting an advertising plan “with the highest normalized bid amount,” as recited in claim 94. Thus, the obviousness rejection of claim 94 is improper and should be reversed. .

In addition, the obviousness rejection of claim 96 is improper because Roth and Davis do not teach or suggest the following elements added by claim 96: “wherein the normalized bid amount for an advertising plan factors in the likelihood that the advertisement will be included on a requested number of display page instances.” Since both Roth and Davis fail to disclose generating normalized bid amounts, it naturally follows that this references similarly fails to disclose that “the likelihood that an advertisement will be included on requested number of display page instances” is factored into the normalized bid amount. Again, the Office Action simply does not address these elements, and has failed to provide any *clear articulation* of a reason why the claimed invention would have been obvious in view of Roth and Davis. Accordingly, the obviousness rejection of claim 96 is improper and should be reversed. .

Independent Claim 101

The obviousness rejection of claim 101 is improper because Roth and Davis do not teach or suggest these elements. For example, both Roth and Davis fail to disclose or suggest elements such as “selecting an eligible advertising plan...whose amount is lower than the amount of the other advertising plan” and “charging the source of the selected advertising plan the amount of the selected advertising plan,” as recited in claim 101.

As explained above with reference to claim 1, Roth discloses bid selection logic that “compares various bids and selects the highest bid for display.” (Roth, 5:33-34, 7:21, 7:31-32). Davis discloses that “the higher the bid amount, the higher the rank value, and the more advantageous the placement location on the search result list.” (Davis, 13:16-2). Because Roth and Davis select or feature the highest bid for display, neither reference teaches or even suggests “selecting an eligible advertising plan...whose amount is lower than the amount of the other advertising plan,” as recited in independent claim 101. Accordingly, the obviousness rejection of claim 101 is also improper for at least these reasons.

Independent Claim 102

The obviousness rejection of claim 102 is improper because Roth and Davis do not teach or suggest these elements. For example, both Roth and Davis fail to disclose or suggest elements such as “placing the advertisement of the bid with the highest normalized bid in the display space slot of the web page instance wherein the bid with the highest normalized bid is not the bid with the highest bid amount” and “charging the source of the bid with the highest normalized bid amount the amount indicated by the bid with the highest normalized bid amount” as recited in claim 102.

In fact, the Office Action fails to address the rejection of independent claim 102 altogether. Indeed, the Office Action does not reference any elements of independent claim 102, nor cite any portion of Roth teaching the elements of the claim. Nevertheless, Appellants will argue for the patentability of claim 102 as if the claim rejection was properly addressed in the Office Action.

As explained above with reference to claims 78 and 94, Roth fails to teach “generating normalized bid amounts,” as recited in claim 102. In particular, Roth discloses a “minimize bid” option that causes the system to “try to bid the minimum amount necessary to maintain the level of buying that will ensure the desired number of impressions during the time allotted.” (Roth, 8:29-43). However, selection of a minimum bid option is not equivalent to “generating a normalized bid amounts,” as recited.

Furthermore, Roth specifically discloses bid selection logic that compares various bids and selects the highest bid for display₂ (Roth, 5:33-34, 7:21, 7:31-32). Davis discloses that “the higher the bid amount, the higher the rank value, and the more advantageous the placement location on the search result list.” (Davis, 13:16-2). Because Roth and Davis teach displaying or featuring an advertisement having the highest bid amount, both references fail to teach “placing the advertisement of the bid with the highest normalized bid in the display space slot of the web page instance wherein the bid with the highest normalized bid is not the bid with the highest bid amount,” as recited in independent claim 102.

Still further, the Office Action simply does not address these elements and has failed to provide any *clear articulation* of a reason why the claimed invention would have been obvious

in view of Roth and Davis. As such, the obviousness rejection of claim 102 is improper and should be reversed.

Dependent Claims 103-105

Claims 103-105 depend directly or indirectly from independent claim 102, discussed above. Because Davis also teaches selection of the highest bid amount, this reference does not provide the teaching that is missing from Roth. Thus, the rejections of claims 103-105 are improper for the reasons set forth above for claim 102. The rejections of these dependent claims are also improper, and should be reversed, for the additional reasons set forth below for specific claims.

Dependent Claim 104

The rejection of claim 104 is improper because Roth and Davis do not alone or collectively, teach or suggest the following elements added by claim 104: “wherein a provided bid includes a requested number of web page instances on which the advertisement is to be placed during a time period and the normalized bid amount for a bid is generated based on the bid amount and likelihood that the advertisement will be placed on the requested number of web page instances during the time period.” The Office Action does not fully address Claim 104. As discussed above with reference to claims 92 and 96, neither Roth nor Davis teach instances/advertisements per time period, or “the normalized bid amount for a bid is generated based on the bid amount and likelihood,” as recited in claim 104.

B. Claims 7, 8, 31-35, 41-43, 51, 52, 82-86 Are Not Obvious Based Upon Roth and Davis in further view of Copple.

Claims 7, 8, 31-35, 41-43, 51, 52, and 82-86 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Roth and Davis in view of Copple. Applicants respectfully disagree. These claims depend directly or indirectly from one of claims 1, 45, or 75, and as such claims 7, 8, 31-35, 41-43, 51, 52, and 82-86 are allowable for at least the same reasons as their respective independent claim. As discussed above, Copple also discloses selecting the highest bid amount, and thus does not supply the teaching missing from Roth and Davis. As such,

claims 7, 8, 31-35, 41-43, 51, 52, and 82-86, which are also addressed above, are allowable for at least the same reasons as their respective independent claim. The obviousness rejections of these dependent claims are also improper, and should be reversed, for the additional reasons set forth below for specific claims.

Dependent Claim 7

The obviousness rejection of claim 7 is improper because Roth, Davis, and Copple do not alone or collectively teach or suggest the following elements added by claim 7. For example, Roth, Davis, and Copple fail to disclose or suggest elements such as the “bid amount is based on points received for participating in a commercial transaction.” As such, the obviousness rejection of claim 7 is improper and should be reversed.

Dependent Claim 31

The obviousness rejection of claim 31 is improper because Roth, Davis, and Copple do not alone or collectively teach or suggest the following elements added by claim 31. For example, Roth, Davis, and Copple fail to disclose or suggest elements such as “allocating points to users based on results of participation in transactions and wherein a bid amount indicates a number of allocated points.” As such, the obviousness rejection of claim 31 is improper and should be reversed.

Dependent Claim 41

The obviousness rejection of claim 41 is improper because Roth, Davis, and Copple do not alone or collectively teach or suggest the following elements added by claim 41. For example, Roth, Davis, and Copple fail to disclose or suggest elements such as “advertising strategy is based at least in part on access patterns of users to categories with which display space slot is associated.” As such, the obviousness rejection of claim 41 is improper and should be reversed.

Dependent Claim 51

The obviousness rejection of claim 51 is improper because Roth, Davis, and Copple do not alone or collectively teach or suggest the following elements added by claim 51. For example, Roth, Davis, and Copple fail to disclose or suggest elements such as “the bid amount is based on points received for participating in a commercial transaction.” As such, the obviousness rejection of claim 51 is improper and should be reversed.

Dependent Claim 82

The obviousness rejection of claim 82 is improper because Roth, Davis, and Copple do not alone or collectively teach or suggest the following elements added by claim 82. For example, Roth, Davis, and Copple fail to disclose or suggest elements such as “a bid amount is based on points received for participating in a commercial transaction.” As such, the obviousness rejection of claim 82 is improper and should be reversed.

C. Claims 9 and 53 Are Not Obvious Based Upon Roth, Davis, and Copple in view of Goldhaber.

Claims 9 and 53 dependent directly or indirectly from claims 1 and 45, respectively. As discussed above, Goldhaber discloses an automatic electronic system for allowing buyers and sellers to locate each another, but does not provide details of how the auction process is conducted or how winning bids are determined. As such, this reference also fails to provide the teaching absent from Roth, Davis, and Copple. Claims 9 and 53, which are also addressed above, are therefore allowable for at least the same reasons as their respective independent claim discussed above.

In addition, the obviousness rejection of claims 9 and 53 is improper because Roth, Davis, Copple, and Goldhaber do not alone or collectively teach or suggest the following elements added by claims 9 and 53. For example, Roth, Davis, Copple, and Goldhaber fail to teach that “the bid amount is based on points received for clicking through one web page instance to an instance of another web page,” as recited in claim 9, or “the bid amount is based on points received for clicking through one display page instance to an instance of another

display page,” as recited in dependent claim 53. As such, the obviousness rejection of claims 9 and 53 is improper and should be reversed.

D. Claims 44, 90, and 100 Are Not Obvious Based Upon Roth, Davis, and Copple in view of Bates.

Claims 44, 90, and 100 depend directly or indirectly from claims 1 and 91, respectively. As discussed above, Bates discloses a scroll bar advertisement for a computer display, but fails to even mention an auction system or selection of bid amounts. Accordingly, inclusion of Bates does not provide the teaching absent from Roth, Davis, and Copple. Thus, claims 44, 90, and 100, which are also addressed above, are allowable for at least the same reasons as their respective independent claim discussed above.

In addition, the obviousness rejection of claims 44, 90, and 100 is improper because Roth, Davis, Copple, and Bates do not alone or collectively teach or suggest the following elements added by claims 44, 90, and 100. For example, Roth, Davis, Copple, and Bates fail to disclose that an “advertising strategy is based at least in part on whether an item being advertised competes with an item associated with the display space,” as recited in claim 44 and similarly in claims 90 and 100. As such, the obviousness rejection of these claims is improper and should be reversed.

E. Claim 36 is Not Obvious Based Upon Roth, Davis, and Copple in view of Tulskie

Claim 36 depends indirectly from independent claim 1. Tulskie simply teaches a network representation of a business firm’s resources, capabilities, value propositions, and interrelationship for automated analysis (Tulskie, 6:34-40). Tulskie fails to even mention an auction system or bid amounts altogether, let alone the “selection of a bid whose bid amount is not the highest” and “charging the source the amount of the selected bid,” as recited in Applicants’ claim 1. Thus the combination of Roth, Davis, Copple, and Tulskie still does not teach all the elements of independent claim 1. Accordingly, claim 36 is allowable for at least the same reasons with respect to independent claim 1 discussed above.

In addition, the obviousness rejection of claim 36 is improper because Roth, Davis, Copple, and Tulskie do not alone or collectively teach or suggest the following elements added by claim 36. For example, Roth, Davis, Copple, and Tulskie fail to disclose that “participation is providing a web page instance through which a person selects another web page instance,” as recited in claim 36. As such, the obviousness rejection of claim 36 is improper and should be reversed.

F. Claim 54 is Not Obvious Based Upon Roth, Davis, and Copple in view of Eldering

Claim 54 depends directly from independent claim 45. Eldering teaches determining a highest bid as the winning bid, as discussed above, and therefore this reference also fails to provide the teaching absent from Roth, Davis, and Copple. Claim 54 is thus allowable for at least the same reasons with respect to independent claim 45 discussed above.

In addition, the obviousness rejection of claim 54 is improper because Roth, Davis, Copple, and Eldering do not alone or collectively teach or suggest the following elements added by claim 54. For example, Roth, Davis, Copple, and Eldering fail to disclose a “bid amount varies based on degree to which the display page matches the display page eligibility,” as recited in claim 54. As such, the obviousness rejection of claim 54 is improper and should be reversed.

8. CONCLUSION

Thus, the Office Action has not identified any prior art reference that discloses the selection of a proposed bid that is not the highest bid and charging the source bid, as recited in independents claims. If a *prima facie* case of anticipation or obviousness has not been established, “then without more the applicant is entitled to grant of the patent.” *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S. P.Q.2d (BNA) 1443, 1444 (Fed. Cir. 1992). Since the Examiner has not presented a *prima facie* case of anticipation or obviousness, the rejections of Claims 1-5, 7-9, 31-36, 41-55, and 75-105 are improper, and request that these rejections be reversed.

Respectfully submitted,

Date: May 20, 2009

/Romiwa C. Akpala/

Romiwa C. Akpala
Reg. No. 59,775

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 650-326-2422
JDL:R2A:psc
61954735 v1

9. CLAIMS APPENDIX

1. (Previously Presented) A method in a computer system for allocating display space on web page instances, the method comprising:

receiving multiple bids each indicating a bid amount, an advertisement, and a requested number of web page instances on which the advertisement is to be placed during a time period;

receiving a request to provide a web page instance to a user, the web page instance including a display space slot for displaying a single advertisement;

selecting, based at least in part on review of bid amounts and on a likelihood that the advertisement will be placed on the requested number of web page instances during the time period, a received bid whose bid amount is not the highest of the bids whose advertisement is eligible to be placed in the display space slot of the web page instance;

adding the advertisement of the selected bid to the display space slot of the web page instance; and

charging the source of the selected bid the amount indicated by the selected bid.

2. (Original) The method of claim 1 wherein the selecting of a received bid is performed after receiving of the request.

3. (Original) The method of claim 1 wherein the selecting of the received bid is based at least in part on demographics of the user.

4. (Original) The method of claim 1 wherein the selecting of the received bid is based at least in part on time at which the request is received.

5. (Previously Presented) The method of claim 1 wherein the selecting of the received bid is based at least in part on a category to which the web page instance relates.

6. (Cancelled)

7. (Original) The method of claim 1 wherein the bid amount is based on points received for participating in a commercial transaction.

8. (Original) The method of claim 7 wherein the commercial transaction is an auction.

9. (Previously Presented) The method of claim 1 wherein the bid amount is based on points received for clicking through one web page instance to an instance of another web page.

Claims 10-30. (Cancelled)

31. (Previously Presented) The method of claim 1 including allocating points to users based on results of participation in transactions and wherein a bid amount indicates a number of allocated points.

32. (Previously Presented) The method of claim 31 wherein the transaction is an auction.

33. (Previously Presented) The method of claim 32 wherein the participation is listing of an item to be auctioned.

34. (Previously Presented) The method of claim 32 wherein the participation is placing a bid on an item.

35. (Previously Presented) The method of claim 32 wherein the participation is purchasing the item.

36. (Previously Presented) The method of claim 31 wherein the participation is providing a web page instance through which a person selects another web page instance.

Claims 37-40. (Cancelled)

41. (Previously Presented) The method of claim 31 wherein a bid is received from a software component that identifies an advertising strategy for the user.

42. (Previously Presented) The method of claim 41 wherein the advertising strategy is based at least in part on access patterns of users to categories with which display space slot is associated.

43. (Previously Presented) The method of claim 41 wherein the advertising strategy is based at least in part on similarity of an item being advertised to a category with which the display space slot is associated.

44. (Previously Presented) The method of claim 41 wherein the advertising strategy is based at least in part on whether an item being advertised competes with an item associated with the display space.

45. (Previously Presented) A computer system for allocating advertising space slots of display page instances, comprising:

a database for storing bids each indicating bid amount, an advertisement, and display page eligibility;

a component that receives a request to allocate an advertisement for an advertising space slot of a display page instance;

a component that selects a bid based on bid amount and display page eligibility stored in the database, wherein the selected bid does not have the highest bid amount of those bids whose advertisement is eligible to be displayed in the advertising space slot of the display page instance to maximize overall revenue received from placement of advertisements;

a component that charges the source of the selected bid the amount indicated by the selected bid; and

a component that indicates that the advertisement of the selected bid is being allocated to the advertising space slot of the display page instance, so that the advertisement of the selected bid is displayed within the advertising space slot of the display page instance.

46. (Previously Presented) The computer system of claim 45 wherein the selecting of a bid is performed after receiving of the request.

47. (Previously Presented) The computer system of claim 45 wherein the display page eligibility is based in part on demographics of the user.

48. (Previously Presented) The computer system of claim 45 wherein the display page eligibility is based in part on time at which the request is received.

49. (Previously Presented) The computer system of claim 45 wherein the display page eligibility is based in part on a category to which the display page relates.

50. (Previously Presented) The computer system of claim 45 including associated with each bid a requested number of advertisements to be placed within a specified time period, and wherein bids are selected in part on a likelihood that the requested number of advertisements associated with the bid will be placed within a specified time period.

51. (Previously Presented) The computer system of claim 45 wherein the bid amount is based on points received for participating in a commercial transaction.

52. (Previously Presented) The computer system of claim 51 wherein the commercial transaction is an auction.

53. (Previously Presented) The computer system of claim 45 wherein the bid amount is based on points received for clicking through one display page instance to an instance of another display page.

54. (Previously Presented) The computer system of claim 45 wherein the bid amount varies based on degree to which the display page matches the display page eligibility.

55. (Previously Presented) The computer system of claim 45 wherein advertising space slots are auctioned to bidders.

Claims 56-74. (Cancelled)

75. (Previously Presented) A method in a computer system for allocating a display space slot of web page instances, the method comprising:

providing a plurality of advertising plans, each advertising plan having a bid amount, an advertisement, and a specification of a display space slot to which the advertisement is to be allocated;

receiving a request to select an advertisement for a display space slot of a web page instance;

identifying advertising plans whose specification of display space slots match the display space slot of the web page instance; and

selecting an identified advertising plan whose advertisement is to be displayed on the display space slot of the web page instance and whose bid amount is not the highest bid amount of the identified advertising plans and charging the source of the selected advertising plan the bid amount associated with the selected advertising plan, wherein selecting such an identified advertising plan tends to increase overall advertising revenue, so that the

advertisement of the selected advertising plan is displayed as the only advertisement within the display space slot of the web page instance.

76. (Previously Presented) The method of claim 75 wherein each advertising plan has an end time and a requested number of advertisement placements and wherein the selecting selects an advertisement plan with a lower bid amount that is near its end time rather than an advertisement plan with a higher bid amount that is not as near its end time.

77. (Previously Presented) The method of claim 76 wherein each advertising plan includes a requested number of web page instances on which to place advertisements and wherein the selecting factors in the number of the requested number of web page instances on which advertisements have been placed.

78. (Previously Presented) The method of claim 75 including dynamically generating a normalized bid amount for at least some of the advertising plans and wherein the selecting selects the identified advertising plan with the highest normalized bid amount.

79. (Previously Presented) The method of claim 78 wherein the normalized bid amount for an advertising plan factors in the likelihood that the advertisement will be included on a requested number of web page instances.

80. (Previously Presented) The method of claim 75 wherein the identifying of the advertising plans is based at least in part on demographics of a user requesting the web page instance.

81. (Previously Presented) The method of claim 75 wherein the identifying of the advertising plans is based at least in part on a category to which the web page instance relates.

82. (Previously Presented) The method of claim 75 wherein a bid amount is based on points received for participating in a commercial transaction.

83. (Previously Presented) The method of claim 82 wherein the commercial transaction is an auction.

84. (Previously Presented) The method of claim 83 wherein the participation is a listing of an item to be auctioned.

85. (Previously Presented) The method of claim 83 wherein the participation is bidding at the auction.

86. (Previously Presented) The method of claim 83 wherein the participation is placing the winning bid at the auction.

87. (Previously Presented) The method of claim 75 wherein an advertising plan is received from a software component that identifies an advertising strategy.

88. (Previously Presented) The method of claim 87 wherein the advertising strategy is based at least in part on access patterns of users to categories with which the display space slot is associated.

89. (Previously Presented) The method of claim 87 wherein the advertising strategy is based at least in part on similarity of an item being advertised to a category with which the display space slot is associated.

90. (Previously Presented) The method of claim 87 wherein the advertising strategy is based at least in part on whether an item being advertised competes with an item associated with the display space slot.

91. (Previously Presented) A computer system for allocating display space on display page instances, comprising:

a component that provides a plurality of advertising plans, each advertising plan with a bid amount;

receiving a request to select an advertisement for a display space of the display page instance;

identifying advertising plans whose advertisements can be placed on the display space of the display page instance;

selecting an identified advertising plan whose advertisement is to be displayed on the display space of the display page instance and whose bid amount is not the highest bid amount of the identified advertising plans wherein selecting such an identified advertising plan tends to increase overall advertising revenue; and

charging the source of the selected advertising plan the bid amount associated with the selected advertising plan, so that the advertisement of the selected advertising plan is displayed on the display space of the display page instance.

92. (Previously Presented) The computer system of claim 91 wherein each advertising plan has an end time and a requested number of advertisement placements and wherein the selecting selects an advertisement plan with a lower bid amount that is near its end time rather than an advertisement plan with a higher bid amount that is not as near its end time.

93. (Previously Presented) The computer system of claim 92 wherein each advertising plan includes a requested number of display page instances on which to place advertisements and wherein the selecting factors in the number of the requested number of display page instances on which advertisements have been placed.

94. (Previously Presented) The computer system of claim 91 including generating a normalized bid amount for at least some of the identified advertising plans and wherein the selecting selects the identified advertising plan with the highest normalized bid amount.

95. (Previously Presented) The computer system of claim 94 wherein the normalized bid amount is generated dynamically.

96. (Previously Presented) The computer system of claim 94 wherein the normalized bid amount for an advertising plan factors in the likelihood that the advertisement will be included on a requested number of display page instances.

97. (Previously Presented) The computer system of claim 91 wherein an advertising plan is received from a software component that identifies an advertising strategy.

98. (Previously Presented) The computer system of claim 97 wherein the advertising strategy is based at least in part on access patterns of users to categories with which display space is associated.

99. (Previously Presented) The computer system of claim 97 wherein the advertising strategy is based at least in part on similarity of an item being advertised to a category with which the display space is associated.

100. (Previously Presented) The computer system of claim 97 wherein the advertising strategy is based at least in part on whether an item being advertised competes with an item associated with the display space.

101. (Previously Presented) A method in a computer system for selecting advertisements for placement on web page instances, the method comprising:

providing advertising plans, each advertising plan including an amount that is a bid amount, an advertisement, and a requested number of web page pages instances on which the advertisement is to be placed during a time period;

for each advertising plan, tracking a placed number of times its advertisement has been selected for placement on a web page instance during its time period;

receiving a request for an advertisement to be placed in a display slot of a web page instance that has been requested by a user; and

upon receiving the request,

identifying provided advertising plans whose advertisements are eligible to be placed in the display space slot of the web page instance;

for each eligible advertising plan, determining a likelihood that its advertisement will be placed on the requested number of web page instances based on the placed number and the time remaining in its time period;

selecting an eligible advertising plan whose determined likelihood is less than the likelihood of another advertising plan and whose amount is lower than the amount of the other advertising plan;

charging the source of the selected advertising plan the amount of the selected advertising plan; and

sending an indication of the advertisement of the selected advertising plan as a response to the received request, so that the advertisement of the selected advertising plan can be displayed in the display space slot of the web page instance that has been requested by a user.

102. (Previously Presented) A method in a computer system for allocating display space on web page instances, the method comprising:

providing bids from advertisers each bid indicating a bid amount and an advertisement; receiving a request to provide a web page instance to a user, the web page instance including a display space slot;

generating normalized bid amounts for the provided bids whose advertisements are eligible to be placed on the web page instance wherein placing the advertisement

of the bid with the highest normalized bid amount in the display space slot of the web page instance is anticipated to maximize revenue; placing the advertisement of the bid with the highest normalized bid amount in the display space slot of the web page instance wherein the bid with the highest normalized bid is not the bid with the highest bid amount; and charging the source of the bid with the highest normalized bid amount the amount indicated by the bid with the highest normalized bid amount.

103. (Previously Presented) A method of claim 101 wherein the web page instance includes multiple display slots and advertisements are added to the display space slots of the web page instance based on the normalized bid amounts.

104. (Previously Presented) A method of claim 101 wherein a provided bid includes a requested number of web page instances on which the advertisement is to be placed during a time period and the normalized bid amount for a bid is generated based on the bid amount and likelihood that the advertisement will be placed on the requested number of web page instances during the time period.

105. (Previously Presented) A method of claim 101 including identifying candidate bids that are eligible to have their advertisements placed in the display slot of the web page instance and generating a normalized bid amount for the candidate bids.

106. (Cancelled)

Jeffrey P. Bezos
Appl. No. 09/437,815
Page 71

PATENT
Attorney Docket No. 026014-004500US

10. EVIDENCE APPENDIX

NONE

Jeffrey P. Bezos
Appl. No. 09/437,815
Page 72

PATENT
Attorney Docket No. 026014-004500US

11. RELATED PROCEEDINGS APPENDIX

NONE